Secjt. II-27—50000—23-11-42.

Devdepmt (1945) Department.

Ms 148 ~~SERIES.~~

Board 202

G.O. No. MS 148

Dated 12-1-45

[Despatch Abstract.]

Suits – Kollegal Silk Filatures Ltd –
Suit filed against Govt of Madras
against acquisition of properties of the

O.P.C. I—178,042—28-3-41.

UNDER SECRETARY 14 DEC 1944 2.5 pm DEVELOPMENT DEPARTMENT

IN THE COURT OF the Subordinate Judge of Coimbatore

73565 D/44

O. S. No. 285 of 19 44

The Kollegal Silk Filatures Ltd., — Plaintiff.

versus

The Province of Madras represented by the Secretary to the Government Development Department Fort St George Madras. — Defendant.

To the defendant

WHEREAS the plaintiff has instituted a suit against you for possession of the Kollegal Silk Filatures Ltd., after declaring the acquisition invalid and damages Rs 61500 — — etc.

you are hereby summoned to appear in this Court in person or by a pleader duly instructed and able to answer all material questions relating to the suit (or who shall be accompanied by some person able to answer all such questions) on the 12th day of March. 1945 at 10 o'clock in the forenoon,

(1) to answer the claim and you are directed to produce on that day all the documents upon which you intend to rely in support of your defence,

(2) to state whether you contest or do not contest the claim and if you contest to receive directions of Court as to the date on which you have to file the written statement, the date of trial and other matters; take notice that in the event of the claim not being contested the suit shall be decided at once,

(3) to answer the claim and as the day fixed for your appearance is appointed for the final disposal of the suit you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Also take notice that in default of your filing an address for service before the day before mentioned you are liable to have your defence struck out.

Take notice that in default of your appearance on the day (and hour) before mentioned, the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court this 8th day of December 1944

Subordinate Judge

MSB

Notice: If you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any witness and the production of any document that you have a right to call on the witness to produce, on applying to the Court and on depositing the necessary expenses.

(2) If you admit the claim, you should pay the money into Court together with the costs of the suit, to avoid execution of the decree, which may be against your person or property or both.

No. 1.

Common form of summons for—

(1) Settlement of issues.

(2) Ascertaining whether a suit is contested or not and, if not contested, for immediate disposal.

(3) Final disposal.

(Form No. 19, Appendix III-A in Part II, C.R.P. and Cos. Vol. II, 1928 Edition).

IN THE COURT OF THE SUBORDINATE JUDGE OF COIMBATORE.

O.S.No. 285 of 1944.

Between

Kollegal Silk Filatures,Ltd., :: PLAINTIFF.

A n d

The Province of Madras, represenbed by theSecretary to the Government Development Department. :: DEFENDANT.

PLAUNT UNDER ORDER VII,RULE I OF THE CODE OF CIVIL PROCEDURE.

=======

—3—

The plaintiff abovenamed stated as follows:—

PLAINTIFF:— The plaintiff is the Kollegal Silk Filatures Ltd., Having its registered Office at Kollegal,Coimbatore District.

The address for service of the plaintiff for service of all notices and processes is that of its Counsel Mr. ...S alakrishna Ayyar,Advocate, Coimbatore.

DEFENDANT:— The defendant herein is the Province of Madras represented by the Secretary to the Government, Development Department, Fort St. George, Madras.

The plaintiff a limited company formed for carrying on inter-alia the business of Silk Filatures, acquired lands, factories, basins and other plants and machinery and built factories and erected plant and machinery, basins etc., and own all these for the said business. Since 29—11—1937, the plaintiff had been manufacturing and selling their products.

4. The Government of Madras have subscribed for and taken shares in the Company and in accordance with the provisions of the Articles of Association in that behalf, the Government has a representative of theirs on the Board of Directors of the Company. On the outbreak of the war silk was required for the manufacture of parachute fabric and the plaintiff was supplying silk to the Government on the indents placed with it.

5. While this was being done, the Director of Industries and Commerce, Madras, served on the plaintiff an order dated 1 --5--1943, issued by the Government of Madras, Development Department (under the Defence of India Rules), requisitioning the Kolli Hill Silk Filatures Ltd., under the Defence of India Rules and the said order states that under Section 75 A. of the Defence of India Rules, His Excellency the Governor of Madras was pleased to requisition from the date of service of the order the immoveable and moveable properties specified in the

schedule to the order- the immoveables being the lands, buildings and all the properties such as 150 reeling basins, steam engine, boilers, engines, pumps etc., The said order is produced herewith.

In purported execution of the said order dated 12-3-1943, the Government took possession of the plaintiff's business inclusive of all immoveables and moveable properties on or about 16--3--1943. Subsequently on 30--3--1943, the Director of Industries and Commerce served on the plaintiff communication purporting to be under Rule 75 A. (2) of the Defence of India Rules, giving notice that the Government of Madras had decided to acquire the properties which had already been requisitioned.

The plaintiff protested against the order of acquisition as illegal and on 5--6--1943, the plaintiff's Board of Directors sent a Memorandum objecting to the acquisition and the compensation offered by the Director of Industries and Commerce, for the properties. The offer of the

Director of Industries not having been accepted by the plaintiff, the Government appointed the District Judge, Coimbatore, asarbitrator for the determination of the compensation payable for the plaintiff's company's immoveable properties, after proper classification into moveables and immoveables. The said proceedings are now pending before the District Judge, Coimbatore, as Arbitrator.

The plaintiff states that the plaintiff's business is an industrial undertaking falling under Rule 81 of the Defence of India Rules, and not moveable and immoveable property within the meaning of Rule 75 A. It is not lawful or competent to the Government to requisition or acquire the undertaking under Rule 75 A. Neither the ordinary law nor the Defence of India Act contemplate, or authorise or permit the extinction of an undustrial undertaking or of the Company that carries it on by acquisition nor even to -- requisition it.

The plaintiffs further states that the acquisition of the properties of the plaintiffs, moveable and immoveable (more fully described in the schedule hereunder, which are really

is illegal.

10. The plaintiffsfurther state that the moveable and immoveable properties that are really integral and inseprarable parts of an industrial undertaking fall under Rule 81 and not under rule 75 A.

11. The plaintiffs submit that under Rule 81 (of the Defence of India Rules) the control exercisable over the industrial undertaking does not include either the requisition or the acquisition of the undertaking or the moveable and immoveable properties intergral to or inseparable fromit.

12. The plaintiffs estimate their loss caused by the continued possession of the Company's properties by the Government at Rs.36000/- a year and claim to recover the same from the Government. The amount thus due is Rs.61,500/- up to this date and claim at the same rate up to date of redelivery of the Company's properties to them

13. The plaintiffs state that if (for any reason) the Court should hold that the under the Defence of India Rules the Government had the right to requisition and control the undertaking it should be declared that they were not entitled to acquire it and they should be directed to hand over possession of the same to the plaintiffs after the cessation of the hostilities or six months thereafter, with compensation at the rate mentioned above (vide para 12)

14. The cause of action for the suit arose on the several dates, when the notices of requisition and acquisition were served on the plaintiffs' Company in March- April 1943 at Kollegal where the properties are situate within the jurisdiction of this Honourable Court.

14a Notice under Sec 80 CPC. was served on 8.9.44 -

15. The plaintiffs value the suit for purposes of jurisdiction and Court Fee at Rs.1,41,462--1--0.

Value of the properties moveable and immoveable at the Government's Valuation	...	Rs.79961--7--0
Damages or loss claimed up to date of suit.	....	Rs.61500--0--0
	Total.	Rs.141461--7--0

16. The plaintiffs pray that a decree be passed,

(a) declaring the requisition and acquisition of the undertaking of the plaintiffs' Company together with the immoveable and moveable properties which are part of the said undertaking under orders dated 15--3--1943 and 30--3--1943 beyond the power of the Government and illegal.

(a) for an order directing the defendants to hand over possession of the undertaking and the properties moveable and immoveable to the plaintiffs, more fully described in the schedule the plaint or in the alternative to direct the Government to hand over possession of the undertaking after the period of the war and six months thereafter, if the present possession by the Government be held valid.

(c) to direct the defendants to pay the sum of Rs.61,500/- being the damages consequent on the illegal requisition and acquisition of the undertaking and the properties of the plaintiffs up to date of suit, and to pay at the rate of Rs.3000/- a month up to date of delivery of possession,

(d) for costs of this suit and subsequent interest.

D) for such further or other reliefs which this Honourable Court may deem fit and proper in the circumstances of the -- case.

SCHEDULE

Lands described below towther ~~xxx~~ with the buildings thereon.

District.	Taluk and Firka.	Village.	Field Survery Nos.	EXTENT.
Coimbatore.	Kollegal.	Mudigundam.	91 A	0-79 Acres.
"	"	"	92	4-52 "
"	"	"	93	0-25 "
"	"		213 A	1-21 "
"	"	"	213 B	1-51 "
"	"	"	225	1-97 "
"	"	"	226	1-78 "

and all outhouses, walls, wells and all appurtenances

150 Silk Reeling basins and connected machinery.
2 Steam Boilers.
1 Steam Engine.
2.Stifling Chambers.
1.Bundling Press
2 pumps
1 safe.
Stands
Workshop stools
Furniture.
Scientific Instruments.
Silk Examination Stands
Carts,
Cycles.
One pair of bulls.
Three water carrying drimms, and all stock of raw materials possessed by the Company for the manufacture of silk, and all machineries, tools, plant appur tenances and goods that the Government took possession of.

(Sd) P.S. Balakrishna Iyer
Advocate
1-12-44

(Sd) M.S. Ganesaiyar.

I, M.S.Ganesier, the managing Director of the Kollegal Silk Filatures Ltd., the plaintiff above-named, do hereby declare that the facts stated above in paragraphs 1 to 16 and in schedule are true to the best of my information, knowledge and belief and I sign the same this 27 th day of November 1944 at Bangalore.

(Sd) M.S. Ganesaiyer

LIST OF DOCUMENTS.

1--9--1941.	Copy of notice sent to the Defendant by the plaintiffs' Counsel, with acknowledgement for the same.	
12.3.43	By Govt to the plaintiff	Acquisition Letter.
9-10-43.	do	do
15-3--1943.	By the Government to plaintiff.	List of Properties taken over (Certified copy)

A will be produced later.

(Sd) P.S. Balakrishna Iyer
Counsel for plaintiff.

Copy to other side

VALUE OF THE SUIT IS Rs.141461-7-0

Court Fee paid is Rs. 2332-7-0

IN THE COURT OF THE SUBORDINATE JUDGE OF COIMBATORE.

O.S.No.285 of 1944.

PLAINTIFF.

Kollegal Silk Filatures Co.,Ltd.

VAKIL.

Mr.P.S.Balakrishna Ayyar.

DEFENDANT.

The Province of Madras represented by the Secretary to the Government Development Department.

PLAINT UNDER ORDER VII, Rule 1 C.P.C

Enc:-- Vakalat. 1.
Documents.
Process.

Total.

Presented on --11--1944.

ADDRESS FOR SERVICE:--

Mr.P.S.Balakrishna Ayyar

Advocate,Coimbatore.

Endt.no 73565 D/46-1d

Communicated to the D.I.G.

2. He is requested to instruct the Govt. Pleader at Coimbatore to prepare a written statement and submit it to Govt. for approval before 15.1.45.

19.12.45

Dev. Dept. D

pl. view & docket

Sub: Suits - Kollegal Silk Filatures Ltd. - Suit filed against the Govt. of Madras against acquisition of properties of the Firm - Defence - Sanctioned.

pp 29-30 of (A)

Read again: (i) G.O. no 311 (MS) Dev. d 12.3.43

pp 9-10 of (B)

(ii) G.O. no. 448 (MS) Dev. d 30.3.43

pp 1-2 of

Read also: from the Subordinate Judge, Coimbatore, Notice d 8.12.44

Order no. 148 (MS) Dev. d 12.1.48 (O.S. no. 285 of 1944)

pp 1-2 of

Sanction is accorded to the defence of the Province of Madras in the Original Suit no. 285 of 1944 on the file of the ~~State Court~~ Subordinate Judge, Coimbatore.

2. The Govt. Pleader, Coimbatore, is requested to prepare a draft written statement in consultation with the Director of Industries & Commerce, Madras and submit it urgently for the approval of the Govt ~~at an early date~~ before filing it in the Court. He will be permitted to peruse any relevant papers in the Secretariat which he may want & peruse before preparing the Statement. ~~which may be referred by him in the preparation of the Statement~~

Order at 'A'

Dw wire order

Dw 18/1.

pp 4.1.45

To The D. I. & C. (with a copy of pp 1-2 of)

" Collector of Coimbatore

" the Govt. Pleader, Coimbatore (with a copy of pp 1-12 of)

Copy to A.G. Madras.

5/1/45

5/1/45

Dev. Dept

Sub: Suits - Kollegal Silk Dilalers Ltd to Suit filed against the Govt of Madras against acquisition of properties of the Firm - Notice to defendant

Ref: From the Subordinate Judge, Coimbatore, Notice dated 8.12.44

To Addl Secy

Please see the notice to the defendant issued by the Subordinate Judge, Coimbatore in respect of a Suit (O.S. No 285 of 1944) filed against the Govt of Madras by the Kollegal Silk Dilalers Ltd. Copy of the plaint in the case is at pp 3-11 cf. The Secretary to the Govt of Dev. Dept has been impleaded as the defendant as representing the Govt of Madras. The prayer in the suit is for a decree on points specified in para 16 of the Plaint. The date of hearing is 12th March 1945.

2. Under G.O. No. 3111 Dev dated 12.3.43, the Govt of Madras decided to requisition specific properties of the Kollegal Silk Dilalers under the provisions of Defence of India rules for promoting the management of Silk as a war measure. Under G.O. No 4148 Dev dated 30.3.43, the properties requisitioned were also acquired by the Govt. The Company was paid compensation which the Govt considered as representing fair value for the properties acquired. The amount was received by the Company under protest. An arbitrator was accordingly appointed in G.O. No 2436 Dev dated 30.9.43 for adjudicating the

claim of the Company for proper compensation. The award of the Arbitrator is awaited.

Meanwhile the Company gave notice to the Kenmare Rural Council an advocate that the acts of the Rural Council acquiring the property was ultra vires. The Rural Council examined the points raised by the Company and were satisfied that the acts taken was intra vires and that the Company might seek legal relief if it is so advised. The Company has accordingly filed Removed the suit under reference [illegible] in issue

Reference is invited to the notes of the Secy, Legal Dept at pp 11-13 of the herein file. The legal position insofar as the Rural Council are concerned is clearly in their favour. The suit has however to be defended in the usual course independently of the Arbitrator's enquiry.

It is therefore for consideration

(i) Whether Sanction for the defence of the suit will be accorded.

(ii) Whether the Rural Pleader Cirumbara will be asked to prepare a written statement in Consultation with the Dade and to file it on behalf of the Rural Council before the Court on the date of the hearing. It is for consideration whether the Rural Pleader should be asked to submit the written Statement for approval of the Rural Council, as the Secy, Dev. Dept has been impleaded as the Defendant and as to whether he may be given oral instructions/ to any relevant papers required by him or those contained files

The case may be sent to the Legal Dept.

for remarks before circulation | A

Points at (i) and (ii) on P.2 note may be approved. Fin. and Legal may ell.

L S

Re writ may be defended.
Re Sol pleader may be called & prepare
a written Statement in consultation with the D.Sec.
& submit it to Sol for approval.

Din

Legal

Fin(pen).

Dev 2.0.
73565D/44-1
23.12.44

Finance may agree with the remarks of Secretary, Dev Dept

Fin
24/12/44

Legal
29.12.44

DWD
29.12.44

Legal

Third Accts. B
29.12.44

Legal Asst

Dapice under Secy. Dev.

Dev
27.12.44

Fin No 67667 Dev
6537D/44-1

A above may be approved.

Dr
27.1.45

A3

SMR
4/1/45

ASSISTANT SECRETARY TO GOVERNMENT
26 DEC 1944
HOME DEPARTMENT

ASSISTANT SECRETARY I
3 DEC 1944
DEPARTMENT.

Legal O. O 8256C-1
3/1/45

ASSISTANT SECRETARY TO GOVERNMENT
044-1
4.1.45
HOME DEPARTMENT

C

5 JAN 1945

6537D/44
3.1.45

To Secy.

4/1/45

With reference to order on A above, a draft Home Legal may see the Secretariat
order is submitted below for approval. ~~It may be sent to Govt~~
~~Legal for acceptance~~

Dev No. 73565D/44-2
6.1.45

Dr
4/1/45
order Copies issue

Dr
5/1/45

Legal
Home

the notes on pp 1-3 above and the draft memo put up may be perused and the case returning to Desr.

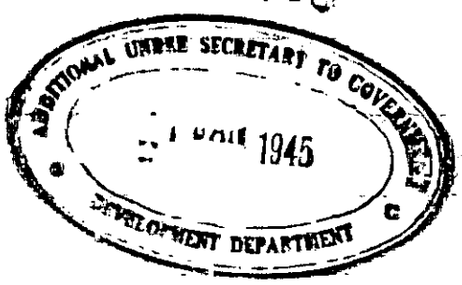
Dom 10.1.45

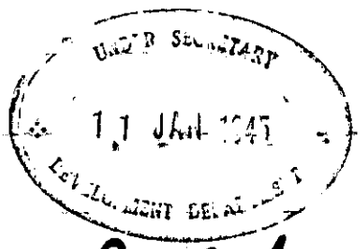
11/1/45

G 11/1/45 Dev.

Home U.O. 644 J/45-1 11.1.45

2684 D/45





Dev. Dept

J. Addl. U.S.

I ... The draft order below may issue now.

11/1/45 DM 11/1/45

[Issued as G.O.No. 148 (115) Dev. d 12.1.45]

p/3 cf

Cor 45

J. D. 28.2.44

... for information in para 2 of G.O.